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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

THE SCO GROUP, INC., a Delaware
corporation,

Plaintiff and Counterclaim-
Defendant,

vs.

NOVELL, INC., a Delaware corporation,

Defendant and Counterclaim-
Plaintiff.

**NOVELL INC.'S *EX PARTE*
MOTION FOR LEAVE TO FILE
AN OVERLENGTH REPLY
MEMORANDUM**

Case No. 2:04CV00139

Judge Dale A. Kimball

Defendant and Counterclaim-Plaintiff Novell, Inc., through its attorneys of record, and pursuant to DuCivR 7-1(e), hereby moves the Court for an order granting it leave to file a reply memorandum in support of Novell's Motion for Partial Summary Judgment on its Fourth Claim for Relief ("Motion") that exceeds the page limitations of DuCivR 56-1(b). Novell requests that

it be allowed to file a reply that does not exceed fourteen pages, exclusive of face sheet, table of contents, table of authorities, statement of issues and summary of argument.

Novell requires an extension of the page limitations specified in DuCivR 56-1(b) due to the length and breadth of the single overlength memorandum filed by Plaintiff and Counterclaim-Defendant The SCO Group, Inc. (“SCO”), both in response to Novell’s Motion and in support of SCO’s cross-motion for summary judgment (“SCO’s Memorandum”). SCO’s Memorandum is approximately 80 pages long, consisting of nearly 36 pages of argument. Further, SCO submitted the Declaration of Brent O. Hatch in connection with its Memorandum, attaching 63 exhibits totaling hundreds of pages.

Novell has endeavored to be as concise as possible in drafting its arguments contained in its Reply to SCO’s Opposition to Novell’s Motion for Partial Summary Judgment in Support of its Fourth Claim for Relief, but to adequately apprise the Court of:

- the material facts conceded by SCO that are sufficient to grant summary judgment to Novell,
- how SCO’s post-hoc interpretation of the term “SVRX License” in the APA is unreasonable and contrary to the express terms of the APA, the 1985 and 1986 IBM and Sequent Software and Sublicensing Agreements, Amendment No. X and Santa Cruz’s treatment of all SVRX revenue flowing from Amendment No. X,
- why Amendment No. 2 is immaterial to Novell’s Motion,
- why SCO’s extrinsic evidence cannot be considered under California contract law, and
- how SCO’s good faith and fair dealing defense is directly contradicted by the case it cites,

a reply consisting of approximately fourteen pages, exclusive of face sheet, table of contents, table of authorities, statement of issues and summary of argument, is necessary.

For the foregoing reasons, Novell submits that good cause and exceptional circumstances exist for the filing of an overlength reply, and respectfully requests that it be granted leave to file the requested Reply to SCO's Opposition to Novell's Motion for Partial Summary Judgment on its Fourth Claim for Relief.

DATED: February 12, 2007

ANDERSON & KARRENBURG

/s/ Heather M. Sneddon

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John P. Mullen

Heather M. Sneddon

-and-

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